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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)

Implementation of Sections of)
the Cable Television Consumer)
Protection and Competition)
Act of 1992: Rate Regulation)

MM Docket No. 92-266

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COMMENTS IN SUPPORT OF PETITIONS FOR RECONSIDERATION

Jones Infomercial Network, Inc. ("Jones"), by its attorneys, respectfully offers these comments in support of two petitions for reconsideration recently submitted in the Commission's "going-forward" rules proceeding.^{1/2/} Specifically, and as more fully described below, Jones supports the petitions for reconsideration submitted by Home Shopping Network, Inc. (the "HSN Petition") and QVC, Inc. (the "QVC Petition").

Jones has recently launched a new network comprised primarily of infomercial programming for carriage by cable television systems and other multi-channel video programming distributors. Like other video retailing or shop-at-home channels, the new network will generate revenue for affiliated cable operators by paying commissions from the

1/ Implementation of Sections of the Cable Television Consumer Protection and Competition Act of 1992: Rate Regulation, MM Docket No. 92-266, Sixth Order on Reconsideration, Fifth Report and Order, and Seventh Notice of Proposed Rulemaking, FCC 94-286 (adopted: November 10, 1994; released: November 18, 1994) ("Going Forward Order").

2/ Jones' affiliated company, Jones Intercable, Inc., is an MSO.

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sale of merchandise occurring within network programming. Operators will not pay license or programming fees to Jones for the service.

Jones fully supports the request set forth in each of the HSN and QVC Petitions that the Commission eliminate the requirement that cable operators that add video retailing or shop-at-home channels offset increased system costs -- which are recoverable from subscribers under the new "going-forward" rules -- with any sales commissions earned by the cable operators and paid by the shop-at-home channels. The rules require that, in calculating the allowable rate increase for an added channel, any revenues received from the programmer must be deducted from programming costs and then, to the extent revenues remain, from the \$0.20 per channel adjustment. As the HSN and QVC Petitions demonstrate, shop-at-home channels (like the new Jones network, and other services that provide commissions to operators for the sale of products) are the only programmers affected by this particular rule. As a result, these programming services find themselves, and will continue to find themselves, at a significant and unfair disadvantage in the increasingly competitive programming marketplace. Similar to QVC's recent experience with Q2, unless the Commission's recently promulgated rule is changed, Jones anticipates significantly more difficult -- and perhaps even unavailing -- negotiations for carriage of its new network.^{3/}

As currently written, Jones believes the rule requiring offsets for infomercial or shop-at-home commissions absolutely will result in cable operators favoring one category of programming service over another. An operator that is faced with limited channel

3/ See QVC Petition at 2 (despite offering substantial financial incentives, "Q2 has simply been unable to successfully negotiate any significant carriage agreements with MSOs under the handicap created by the new rules.").

capacity will find that many of the incentives to add the new Jones network (or shop-at-home programming services) will have effectively been eliminated by the going-forward offset rules.

Specifically, because there are no "programming costs" incurred by cable operators in carrying shop-at-home or infomercial services like the new Jones network, any and all sales commissions paid by Jones to its cable operator affiliates must be deducted from the \$0.20 per channel adjustment factor. In contrast, as the HSN Petition makes clear, the local advertising revenue received by cable operators as consideration for carrying many other services does not have to be offset against the \$0.20 increase.^{4/} As a result, under the new going-forward rules, cable operators will be permitted to retain all of the revenues derived from local avails, without offset, but are punished through higher offsets for increased sales commissions from shop-at-home services. This result clearly disserves the Commission's goal of programmer neutrality.

Finally, as Jones -- in its dual role of programmer and MSO -- clearly understands, cable operators are not going to add networks like the new Jones service if the cost of complying with the rules is much higher than for traditional program services. From an operator's perspective, under the current rule, there is significantly less complexity involved in deciding to carry a traditional (i.e., advertiser-supported network) than in deciding to carry a shop-at-home service. Moreover, because Jones' service is marketed as a part-time, as well as a full-time service, the required offset will make the service less

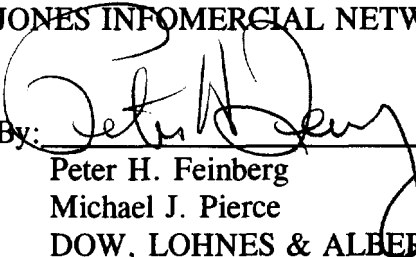
^{4/} See HSN Petition at 4.

attractive as a part-time service because operators will be more inclined to fill a part-time channel with an advertiser-supported service for which they do not have to compute offsets.

For the above stated reasons, Jones respectfully supports the petitions for reconsideration submitted by HSN and QVC, and hereby requests the Commission to eliminate the sales commission offset requirement set forth in its Going Forward Order.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Cynthia R. Porter, hereby certify that on this 3rd day of February 1995, a copy of the foregoing "Comments in Support of Petitions for Reconsideration" has been served by first class United States mail, postage prepaid, upon the following:

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